

CHARLES F. PREUSS (State Bar No. 45783)  
BRENDA N. BUONAIUTO (State Bar No. 173919)  
DRINKER BIDDLE & REATH LLP  
50 Fremont Street, 20<sup>th</sup> Floor  
San Francisco, California 94105  
Telephone: (415) 591-7500  
Facsimile: (415) 591-7510

ORIGINAL  
FILED

JUN 29 2007

Attorneys for Defendants  
ORTHO-MCNEIL PHARMACEUTICAL, INC.  
and MCKESSON CORPORATION

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

W

3424

TERRI RANDALL, an individual;  
Plaintiff,

Case No.

v.

ORTHO-MCNEIL PHARMACEUTICAL,  
INC., a Delaware Corporation;  
MCKESSON CORP. and DOES 1-500,  
inclusive,

DECLARATION OF BRENDA N.  
BUONAIUTO IN SUPPORT OF NOTICE  
OF REMOVAL AND REMOVAL OF  
ACTION UNDER 28 U.S.C. § 1441(B)  
[DIVERSITY]

Defendants.

I, Brenda N. Buonaiuto, declare:

1. I am an attorney admitted to practice before all courts of the State of California and am Counsel with Drinker Biddle & Reath, LLP, attorneys for defendants Ortho-McNeil Pharmaceutical, Inc. ("OMP") and McKesson Corporation ("McKesson") in this action. I make this Declaration based on my personal knowledge, in support of OMP's removal of *Terri Randall v. Ortho-McNeil Pharmaceutical, Inc., McKesson Corp., and Does 1-500, inclusive*, Case Number CGC-07-463332 to this Court. I would and could competently testify to the matters stated in this Declaration if called as a witness.

2. A true and accurate copy of the Complaint in this action is attached as **Exhibit A**. The Complaint is the only state court pleading known to OMP and to

1 McKesson to have been filed in this action.

2 3. OMP was and is a corporation existing under the laws of the State of  
3 Delaware, with its principal place of business in New Jersey. OMP was served with the  
4 Summons and Complaint in this action on June 12, 2007.

5 4. McKesson was served with the Summons and Complaint in this action on  
6 June 20, 2007. McKesson consents to removal of this action to this Court.

7 5. OMP will file a notice of the filing of this Notice of Removal and Removal  
8 in the San Francisco County Superior Court and will serve plaintiffs' counsel with a  
9 copy.

10 6. On March 1, 2006, the Judicial Panel on Multidistrict Litigation ("JPML")  
11 created MDL 1742, *In re: Ortho Evra Products Liability Litigation*, ruling that all  
12 federal actions involving allegations of injury or death from use of the prescription drug  
13 Ortho Evra® be centralized for pre-trial purposes in the United States District Court for  
14 the Northern District of Ohio, before the Honorable David A. Katz, Case Number 1:06-  
15 CV-40000-DAK. To date, over 500 cases have been transferred to MDL 1742, and  
16 transfers of additional "tag-along" actions are pending.

17 7. Attached as **Exhibit B** is a true and accurate copy of the Declaration of  
18 Greg Yonko, Senior Vice President – Purchasing, McKesson Corporation, filed in *Abel,*  
19 *Theresa, et al. v. Ortho-McNeil Pharmaceutical, Inc., et al.*, United States District Court,  
20 Northern District of California, Case No. C 06 7551 SBA, on December 8, 2006.

21 8. Attached as **Exhibit C** is a true and accurate copy of the Slip Opinion  
22 denying the plaintiffs' motion to remand in *Barlow, et al. v. Warner-Lambert Co., et al.*,  
23 Case No. CV 03-1647-R(RZx), in the United States District Court for the Central District  
24 of California (Western Division), dated April 28, 2003..

25 9. Attached as **Exhibit D** is a true and accurate copy of the Slip Opinion  
26 denying the plaintiffs' motion to remand in *Skinner, et al. v. Warner-Lambert Co., et al.*,  
27 Case No. CV 03-1643-R(RZx), in the United States District Court for the Central District  
28 of California (Western Division), dated April 28, 2003.

1           10. I have reviewed reports of verdicts and settlements in cases in this judicial  
2 district, brought by plaintiffs claiming serious injuries from the use of prescription drugs  
3 or medical devices. Given the similarity between the injuries alleged in those cases and  
4 plaintiff's claims, it is reasonably believed that if plaintiff succeeded in proving her  
5 allegations in this action, she would recover in excess of \$75,000, exclusive of interest  
6 and costs. Plaintiffs claiming substantially similar injuries in the Ortho Evra® MDL  
7 have specifically alleged that the amount in controversy in their respective actions  
8 exceeds \$75,000, exclusive of interest and costs.

9           I declare under penalty of perjury under the laws of the United States of America that  
10 the foregoing is true and correct. Executed on June 29, 2007.

11   
12 Brenda N. Buonaiuto  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28